

General Information Letter: Payment of income tax after the unextended due date of the return is subject to penalty.

November 20, 2003

Dear:

Your letter dated October 10, 2003 has been forwarded to Legal Services for a reply. Your letter states the following:

This letter is to serve as a written notice of Protest. I Mr. Z protest this amount. This is a clear case of abuse of the judicial power of the State of Illinois Tax Department. I have paid the full amount of the tax. I have made numerous attempts to make payments on some interest or penalties and have been refused. I request this be moved to a small claims court of the state's choice, in the state of choice. I would like a jury of my peer's. Further more I request to have my lawyer present. If we need to go to court please feel free to send me a subpoena and I will make arrangements to comply. If the state wants to negotiate this amount we can solve this problem without court.

According to the Department of Revenue ("Department") regulations, the Department may issue only two types of letter rulings: Private Letter Rulings ("PLR") and General Information Letters ("GIL"). The regulations explaining these two types of rulings issued by the Department can be found in 2 Ill.Adm.Code §1200, or on the website <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

Due to the nature of your inquiry and the information presented in your letter, we are required to respond with a GIL. GILs are designed to provide background information on specific topics. GILs, however, are not binding on the Department.

Your letter relates to an unpaid balance for tax year 1989. Your letter states that you "have paid the full amount of the tax." While this is true, the date of the check covering your 1989 tax liability was dated May 7, 2001. Section 601 of the Illinois Income Tax Act ("IITA," 35 ILCS 5/101 et seq) requires payment on the due date of the return. Section 505 of the IITA states that individuals shall file returns "on or before the 15<sup>th</sup> day of the fourth month following the close of the taxable year." According to Illinois law, you should have paid your 1989 taxes by April 15, 1990. As a result of your 1989 tax payment being over ten years late, you have properly been assessed penalties and interest pursuant to the Uniform Penalty and Interest Act ("UPIA," 35 ILCS 735 et seq).

You state in your letter that your letter "is to serve as a written notice of Protest". You are no longer eligible to protest the amount assessed against you. According to IITA Section 908 you have 60 days after the issuance of the Notice of Deficiency to file a written protest. The Illinois Department of Revenue sent you a Notice of Deficiency on July 22, 1991. We recommend that you pay the balance due immediately as interest is accruing daily.

As stated above, this is a general information letter which does not constitute a statement of policy that either applies, interprets or prescribes tax law. It is not binding on the Department. Should you have additional questions, please do not hesitate to contact our office.

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Sincerely,

Heidi Scott  
Staff Attorney -- Income Tax